

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

v.

WESLEY T. VAVRA,

Defendant.

8:22CR171

ORDER

On August 23, 2023, a jury found defendant Wesley Vavra (“Vavra”) guilty of attempting to persuade, induce, or entice a minor to engage in sexual activity, in violation of 18 U.S.C. § 2422(b). The Court denied Vavra’s Motion for Judgment of Acquittal or New Trial (Filing No. 82), and later sentenced him to a 235-month term of imprisonment. With the help of his retained attorney James K. McGough (“McGough”), Vavra has filed a Notice of Appeal (Filing No. 93) as to both his conviction and sentence.

Now before the Court is Vavra’s Motion for Permission to Appeal in Forma Pauperis (Filing No. 94) and McGough’s Motion to Withdraw as Counsel (Filing No. 92).

Under Federal Rule of Appellate Procedure 24(a)(1), a party “who desires to appeal in forma pauperis must file a motion in the district court” and attach to that motion an affidavit showing “in the detail prescribed” by the applicable form “the party’s inability to pay or to give security for fees and costs.” The affidavit filed in support of Vavra’s motion is mostly incomplete and lacks the “detail prescribed” by the form. As such, the Court will presently deny his motion on this basis and will reconsider the matter if Vavra files a sufficiently detailed affidavit.

McGough’s motion to withdraw must also be denied. Eighth Circuit Rule 27B provides that retained trial counsel in criminal cases must file the notice of appeal in their

client's case and "must represent the defendant on appeal, unless the Court of Appeals grants permission to withdraw." McGough must therefore refile his motion with the Eighth Circuit. Accordingly,

IT IS ORDERED:

1. Defendant Wesley Vavra's Motion for Permission to Appeal in Forma Pauperis (Filing No. 94) is denied without prejudice.
2. The Motion to Withdraw as Counsel (Filing No. 92) is denied without prejudice.

Dated this 6th day of December 2023.

BY THE COURT:

A handwritten signature in black ink, appearing to read "Robert F. Rossiter, Jr.", with a stylized flourish at the end.

Robert F. Rossiter, Jr.
Chief United States District Judge